

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Supreme Court Case Nos. 2024-001423 and 2024-000916
Circuit Court Case No. 2023-CP-40-01759

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S.C. SUPREME COURT

John A. Tibbs and Margaret B. Tibbs, Plaintiffs,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AIW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited ASCO, L.P.; Atlas Asbestos Co.; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas CT, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global;

Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Incl; SPX Corporation; Stafford Insulation Company; Standard Insulation Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis Company of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable, LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves and Controls US, Inc.; Velan Valve Corp.; Viking Pump, Inc; Vistra Intermediate Company LLC; The William Powell Company; Wind Up, Ltd.; Yuba Heat Transfer LLC; and Zurn Industries, LLC, Defendants,

of which

Asbestos Corporation Limited is the..... Appellant,

and

Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas,..... Third-Party Plaintiff/ Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa Ltd.; DeBeers PLC; DeBeers Centenary AG; DeBeers Consolidated Mines Ltd.; DeBeers S.A.; DeBeers UK Ltd.; DeBeers Jewelers US, Inc.; Angle American US Holdings Inc.; Element Six US Corp.; Element Six Technologies US Corp.; Element Six Technologies (OR) Corp.; First Mode Holdings, Inc.; Platinum Guild International (USA) Jewelry Inc.; Forevermark US Inc.; Anglo American Crop Nutrients (USA), LLC; Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd.; Cape Holdco Ltd.; The Law Debenture Corporation PLC; Cape Industrial Services Group Ltd.; Mohed Altrad; Altrad UK Ltd.; Cape UK Holdings Newco Ltd.; Altrad Services Ltd., f/k/a Cape Industrial Services Ltd.; Altrad Investment Authority SAS; Sparrows Offshore Group Ltd.; Hawk Bidco US Inc.; Arranco US, LLC; Sparrows Offshore, LLC; The Sparrows Group, LLC,..... Third-Party Defendants,

of which

Charter Consolidated Ltd.; ESAB Corporation; and Central Mining & Investment Corporation Ltd. are the Appellants.

SUPPLEMENT TO THE CHARTER DEFENDANTS' PETITIONS FOR A WRIT OF
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Charter Consolidated Ltd.; ESAB Corporation; and Central Mining & Investment Corporation Ltd. (“Charter Defendants”) have filed petitions for a writ of certiorari seeking review of the circuit court’s orders that: (a) grant a new receivership over Cape Intermediate Holdings Ltd. (“CIHL”), which is a solvent, active U.K. company that has nothing at all to do with the State of South Carolina; (b) grant, modify and continue a receivership over Cape PLC, which is also a solvent, active Bailiwick of Jersey company formed decades after the date of the allegations in the third-party complaint, that has nothing at all to do with the State of South Carolina; and (c) refuse to enjoin the Receiver from continuing to purport to act for these companies without any jurisdiction to do so due to the pendency of these appeals.¹ Appellate Case Nos. 2024-001423 and 2024-000916.

The Court needs to be aware of recent happenings so that it can properly assess under Rule 242(b), SCACR, whether there are “special and important reasons” to exercise its discretion and grant certiorari review. In this light, Charter Defendants bring to this Court’s attention recent filings in related Appellate Case No. 2024-001499, where identical issues are pending with regard to the merits of the receivership(s). In that case the Receiver, on December 13, 2024, filed an “EMERGENCY MOTION FOR SUPERSEDEAS TO PROTECT AND ENFORCE JURISDICTION AND FOR TEMPORARY RESTRAINING ORDER” (“Supersedeas”). In the Supersedeas, the Receiver (in stark contrast to his longstanding position that South Carolina

¹ By continuing to prosecute these appeals, Charter Defendants do not waive, and expressly preserve, all defenses to the underlying action, including the defense of lack of personal jurisdiction and the impropriety of the purported receiverships over CIHL and/or Cape PLC.

appellate courts should ignore the merits of his receivership appointment(s)) now demands that this Court rule in his favor on the merits of the receivership(s) by “[c]onfirming the South Carolina courts’ jurisdiction over the Cape Receivership.” (Supersedeas P. 8.) Receiver argues that his requested relief is necessary to protect his “legitimate state-court receivership.” (Supersedeas P. 7.) The Altrad Defendants responded to the Supersedeas on December 19, 2024, setting forth, among other things, the bases as to why the receiver appointment(s) have been flawed from the start and are void. The arguments made by both the Receiver and the Altrad Defendants highlight the importance of this Court granting the Petitions for Certiorari and considering the merits of the issues on appeal.

Accordingly, Charter Defendants, as further support in favor of this Court granting their Petitions for Certiorari, incorporate by reference and adopt all arguments and authorities raised by and/or included in Altrad Defendants’ MEMORANDUM IN OPPOSITION TO THE “EMERGENCY MOTION FOR SUPERSEDEAS TO PROTECT AND ENFORCE JURISDICTION AND FOR TEMPORARY RESTRAINING ORDER” filed on December 19, 2024, in Appellate Case No. 2024-001499. *Cf.* Rule 208(b)(6), SCACR (“In cases involving more than one appellant or respondent, including cases consolidated for appeal, any number of parties may join in a single brief, and any party may adopt by reference all or any part of the brief of another.”). *See also Stanley Smith & Sons, Inc. v. Dumas*, 315 S.C. 30, 33, 431 S.E.2d 595, 596 (Ct.App.1993) (the Court of Appeals took notice of the contents of the appellate record in another, unrelated case).

It is inescapable that there are “special and important reasons” why the Court should grant the Charter Defendants’ certiorari petitions and put an end to the receivership without delay.

Signature Page Attached

Respectfully submitted,

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*Attorneys for Appellants Charter Consolidated Ltd.;
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December 19, 2024